

## **REMARKS**

Applicant has now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of November 18, 2010. Reexamination and reconsideration are respectfully requested.

### **The Office Action**

Applicant appreciates return of the signed copy of PTO-1449 indicating that the prior art submitted by applicants was considered. Likewise, the indication that the drawings were accepted is also appreciated.

#### *Informal Objections*

The Office Action objected to the title of the present disclosure as to clearly indicate the invention to which the claims are directed. The title is amended as indicated above whereby it is respectfully submitted that the title is now descriptive.

#### *Claim rejections 35 U.S.C. 102*

The Office Action rejected claims 1, 2, 4, 11, 18 and 19 under 35 U.S.C. 102(b) as being anticipated by Tetsuro Sakano (JP 01189518) – (hereinafter "Sakano"). Claims 1 and 11 have been amended to recite a "pattern which is visibly or invisibly formed like gradation so as to generate a color (visible light) or invisible light specific to that position to be able to send out the electromagnet wave of a wavelength continuously different according to a position on the detected element to the sensor side, and to be able to detect an absolute position of the detected element." Sakano does not disclose either the position detector or the detected element of claim 1 and claim 11, respectfully.

More particularly, the Office Action states that Figure 2 of Sakano discloses the pattern as claimed. However, Fig. 2 shows the analog code patterns formed on a disk of an incremental-type rotary encoder. Waveforms described in Fig. 2 are not gradation-

like which generates the electromagnetic wave of a wavelength continuously different according to a position on the detected element and enables the detector to detect an absolute position therein.

Each pattern of channel I(A, B), II(A,B), III(A,B) described in Fig. 2 can only detect lights whose wave has a constant wavelength. These patterns in Fig. 2 can not generate the electromagnetic wave of a wavelength continuously different (multiple wavelengths) according to different positions on these patterns described in Fig. 2.

Moreover, among patterns of channel I(A, B), II(A,B) and III(A,B) described in Fig. 2, gradation-like form is not disclosed. Sakano describes that "the rotary code disk having a plurality of different sets (called "channels" hereinafter) of waveforms where the waveforms have successively different lengths according to a predetermined integer ratio." See Page 2. Consequently, Sakano does not disclose the pattern which is visibly or invisibly formed like gradation.

Therefore, it is respectfully submitted that independent claims 1 and 11 and claims 2-10 and 12-20 respectfully dependent therefrom are in condition for allowance.

**CONCLUSION**

All formal and informal matters have been addressed. For the reasons detailed above, it is respectfully submitted that all claims remaining in the application (Claims 1-20) are now in condition for allowance. Reconsideration of the claims and an early notice of allowance are earnestly solicited.

In the event the Examiner believes a phone call would expedite disposition of this case, please call the undersigned, at Telephone Number 216.363.9000.

Respectfully submitted,

Fay Sharpe LLP

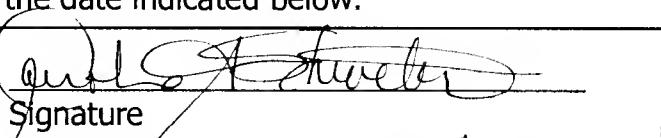


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I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.

Date: February 15, 2011



Signature

Printed Name: Caroline A. Schweter